

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 -o0o-

4 UNITED STATES OF AMERICA,  
5 Plaintiff,

6 v.

7 **ROBERT MITTLEMAN**, also know as,  
8 Defendant.

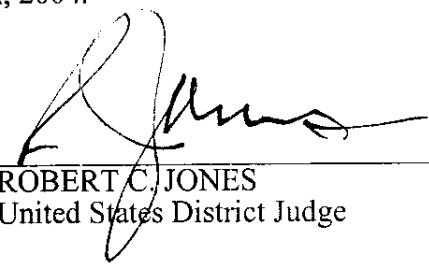
CR-S-04-150-RCJ (RJJ)

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APR 28 2004	
CLERK U.S. DISTRICT COURT DISTRICT OF NEVADA	
BY	DEPUTY

9  
10 Based on the Government's Motion, and good cause appearing:

11 IT IS HEREBY **ORDERED** that the Clerk of the Court shall **UNSEAL** the  
12 information, plea agreement, plea hearing and general case file in United States v. Robert Mittleman,  
13 CR-S-04-150-RCJ (RJJ).

14 DATED this 27th day of April, 2004.

15  
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17   
18 ROBERT C. JONES  
19 United States District Judge  
20  
21  
22  
23  
24  
25  
26

CR-S-04-0150



CR-S-04-0150-0008



04/26/2004



\*A04/27/2004



1 DANIEL G. BOGDEN  
United States Attorney  
2 ERIC JOHNSON  
Chief, Organized Crime Strike Force  
3 KATHLEEN BLISS  
Assistant United States Attorney  
4 Organized Crime Strike Force  
Lloyd D. George United States Courthouse  
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7 Attorneys for the Government

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

10 -o0o-

11 UNITED STATES OF AMERICA, )

12 Plaintiff, )

13 v. )

14 ROBERT MITTLEMAN, also know as, )

15 Defendant. )

CR-S-04-150-RCJ (RJJ)

16  
17  
18 **GOVERNMENT'S MOTION TO UNSEAL INFORMATION, PLEA AGREEMENT,  
PLEA HEARING AND GENERAL CASE FILE**

19 COMES NOW the United States of America, by and through its attorneys, Daniel G.  
20 Bogden, United States Attorney, Eric Johnson, Chief, Organized Crime Strike Force, and Kathleen  
21 Bliss, Assistant United States Attorney, Organized Crime Strike Force, and moves the Court to unseal  
22 the information, plea agreement, plea hearing and general case file in United States v. Robert  
23 Mittleman, CR-S-04-150-RCJ (RJJ). This case file was originally sealed to protect the integrity of  
24 an undercover operation. While the undercover operation is ongoing, the Government needs to unseal  
25 the file to provide necessary discovery to defendants in United States v. Robert Mitchell and Thomas,  
26 Williams, CR-S-01-301-JCM (LRL). This case is set for trial in front of the Honorable James Mahan,

✓ FILED -- RECEIVED  
-- ENTERED -- SERVED ON  
U.S. DISTRICT COURT DISTRICT OF NEVADA

2004 APR 26 P 2:34

CLERK OF COURT  
U.S. DISTRICT COURT DISTRICT OF NEVADA

BY: [Signature] DEPUTY

8

1 United States District Judge, on May 11, 2004. Defendant Robert Mittleman will be a witness in that  
2 trial against defendants Mitchell and Williams.

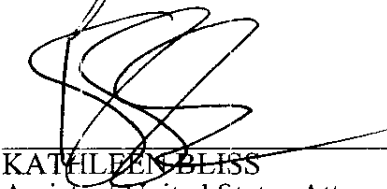
3 The Court should unseal the case file.

4 DATED this 26th day of April, 2004.

5 DANIEL G. BOGDEN  
6 UNITED STATES ATTORNEY

7 

8 ERIC JOHNSON  
9 Chief, Organized Crime Strike Force

10 

11 KATHLEEN BLISS  
12 Assistant United States Attorney

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 -o0o-

4 UNITED STATES OF AMERICA, )

5 Plaintiff, )

6 v. )

7 ROBERT MITTLEMAN, )

8 Defendant. )

CR-S-04-150-RCJ (RJJ)

9  
10 **GOVERNMENT'S MOTION TO UNSEAL INFORMATION, PLEA AGREEMENT,**  
11 **PLEA HEARING AND GENERAL CASE FILE and PROPOSED ORDER**

12 upon the following:

13 Mr. ALVIN ENTIN, Esq.  
14 200 East Broward Blvd,  
Fort Lauderdale, FL 33301

15 by placing said response in a U.S. Postal Service Depository,  
properly addressed and postage paid.

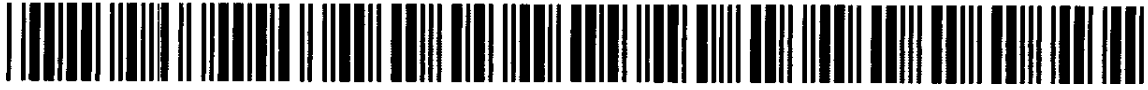
16 DATED: April 26<sup>th</sup>, 2004

17   
18 DARLENE GRAHAM

CR-S-04-0150



CR-S-04-0150-0007



04/16/2004



\*A04/19/2004



1 DANIEL G. BOGDEN  
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2 KATHLEEN BLISS  
Assistant United States Attorney  
3 Organized Crime Strike Force  
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4 Lloyd D. George United States Courthouse  
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7 Attorneys for the Plaintiff  
United States of America  
8

9 UNITED STATES DISTRICT Court  
10 DISTRICT OF NEVADA  
11

12 -o0o-

13 UNITED STATES OF AMERICA, ) CR-S-  
14 Plaintiff, )  
15 v. )  
16 ROBERT MITTLEMAN )  
17 Defendant. )

18 **GUILTY PLEA MEMORANDUM**

19 Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the United  
20 States of America, Defendant ROBERT MITTLEMAN, and his counsel, Alvin Entin, enter into the  
21 following plea agreement which is not binding on the Court. Any reference to the United States or  
22 the government in this Agreement shall mean the Office of the United States Attorney for the District  
23 of Nevada. This Agreement binds only Defendant and the United States Attorney's Office for the  
24 District of Nevada and does not bind any other federal, state, or local prosecution authority. If  
25 Defendant's guilty plea is rejected, withdrawn, vacated or reversed at any time, the United States will  
26 be free to prosecute Defendant for all charges of which it has knowledge. In such event, Defendant

7

1 waives any objections, motions, or defenses based upon the Statute of Limitations, the Speedy Trial  
2 Act or constitutional restrictions related to the later charges or proceedings.

3 I.

4 PLEA AGREEMENT

5 The United States and Defendant have reached the following plea agreement:

6 **A. The Plea**

7 Defendant will plead guilty to Counts One, Two and Three of the three-count  
8 Information charging him with sports bribery and bribery of a public official, in violation of Title 18,  
9 United States Code, Section 224 (Counts One and Two), and Title 18, United States Code, Section  
10 201(b)(1)(Count Three). By his plea of guilty to the Information, Defendant also waives venue with  
11 respect to Count One of the Information and agrees that he can be charged, convicted and sentenced  
12 in the United States District Court for the District of Nevada.

13 **B. Additional Charges**

14 The United States will bring no additional charge or charges against Defendant arising  
15 out of or relating to the investigation in the District of Nevada which culminated in this Plea  
16 Memorandum. However, this agreement does not foreclose prosecution for an act of murder, attempted  
17 murder, an act of physical violence against the person of another, or any conspiracy to commit any  
18 such act of violent unlawful activity. Nothing in this Agreement shall be construed to protect  
19 Defendant in any way from prosecution for perjury, false declaration or false statement, or any other  
20 offense committed by Defendant after the date of this agreement. Any information, statements,  
21 documents and evidence which Defendant provides to the United States pursuant to this agreement  
22 may be used against Defendant in all such prosecutions.

23 ...

24 ...

25 ...

26 ...



1 **C. Sentencing Guideline Calculations**

2 1. The parties agree that the following calculations of the Sentencing Guidelines  
3 are not binding under Rule 11(c)(1)(B) on the Court:

4 **Initial Calculations**

5 2. For a violation of sports bribery under Title 18, United States Code, Section  
6 224, Defendant's base offense level is 8. (U.S.S.G. §2B4.1). There is a one-level enhancement if the  
7 value of the improper benefit to be conferred exceeded \$2,000 but did not exceed \$5,000. The United  
8 States agrees that Defendant received benefits that did not exceed \$5,000.

9 3. For a violation of bribing a public official under Title 18, United States Code,  
10 Section 201, Defendant's base offense level is 10. (U.S.S.G. § 2C1.1). There is an eight-level  
11 enhancement if the official holds a high-level decision-making or sensitive position.

12 **Acceptance of Responsibility**

13 4. The United States will recommend that Defendant receive a three-level  
14 adjustment for acceptance of responsibility unless Defendant (a) does not make a complete factual  
15 basis for the guilty plea at the time it is entered; (b) is untruthful with the Court or probation officers;  
16 (c) denies involvement in the offense or provides conflicting statements regarding Defendant's  
17 involvement; (d) attempts to withdraw the guilty plea; (e) engages in criminal conduct; (f) fails to  
18 appear in Court; or (g) violates the conditions of Defendant's pretrial release conditions. If the  
19 Government does not make a recommendation for any of the reasons provided in this paragraph,  
20 Defendant cannot withdraw his plea because of the Government's failure to make the binding  
21 recommendation.

22 **Criminal History Category**

23 5. Defendant's Criminal History Category will be determined by the Court.

24 **Downward Departures**

25 6. Defendant will not seek a downward departure from any sentence imposed  
26 within the applicable sentencing range.

1                   **Sentencing Recommendation**

2                   7.       The Government makes a nonbinding recommendation that Defendant be  
3 sentenced at the low end of the guideline range.

4       **D. Fines and Special Assessment**

5                   1.       Defendant agrees that the Court may impose a fine within the guideline range  
6 stipulated in this plea agreement and require that such fine be due and payable immediately upon  
7 sentencing.

8                   2.       Defendant will pay the special assessment of \$100.00 per count of conviction  
9 at the time of sentencing.

10       **E. Supervised Release**

11                   Defendant agrees that the Court may impose supervised release for a term of at least  
12 two years but not exceeding three years.

13       **F. Restitution**

14                   Defendant will make restitution in an amount to be determined by the Court, which  
15 Defendant agrees may include relevant conduct. The parties agree that there is no monetary loss in  
16 this case. Defendant understands that any restitution imposed by the Court may not be discharged in  
17 whole or in part in any present or future bankruptcy proceeding.

18       **G. Waiver of Appeal**

19                   Defendant is aware that Title 18, United States Code, Section 3742 gives Defendant  
20 a right to appeal the sentences to be imposed for his conviction and that other federal statutes give  
21 Defendant the right to appeal other aspects of his conviction. In exchange for concessions made by  
22 the United States in this agreement, Defendant voluntarily and knowingly waives the following rights:  
23 (a) his right to appeal any sentence that is imposed within the binding Sentencing Guideline range as  
24 determined by the Court, including his right to appeal the manner in which that sentence was  
25 determined on the grounds set forth in Title 18, United States Code, Section 3742; (b) his right to  
26 appeal any aspect of his conviction, including any pretrial suppression matters or other pretrial

1 disposition of motions and issues; and (c) his right to bring any collateral attack against his conviction  
2 or sentence, except for a claim of ineffective assistance of counsel. This agreement does not affect the  
3 rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b);  
4 and therefore the government retains all its appeal rights. Defendant reserves only the right to appeal  
5 any portion of the sentence that is an upward departure.

6 **H. Additional Promises, Agreements, and Conditions**

7 1. Nothing in this Agreement shall preclude the government in any way from  
8 presenting any accurate information regarding any matter, including but not limited to any sentencing  
9 matter or consideration, to the sentencing Court or the United States Department of Probation. And,  
10 nothing in this Agreement restricts the Court's or Probation Department's access to information and  
11 records in the possession of the government.

12 2. Nothing in this Agreement shall limit in any way the government's comments  
13 in, and responses to, any post-sentencing matter.

14 3. The parties agree that no promises, agreements, and conditions have been  
15 entered into other than those set forth in this plea memorandum, and not will be entered into unless  
16 in writing and signed by all parties.

17 **I. Limitations**

18 This Plea Agreement is limited to the United States Attorney's Office for the District  
19 of Nevada and cannot bind any other federal, state or local prosecuting, administrative, or regulatory  
20 authority. However, this Plea Memorandum does not prohibit the United States through any agency  
21 thereof, the United States Attorney's office for the District of Nevada, or any third party from  
22 initiating or prosecuting any civil proceeding directly or indirectly involving Defendant including but  
23 not limited to proceedings under the False Claims Act relating to potential civil monetary liability or  
24 by the Internal Revenue Service relating to potential tax liability.

25 ...

26 ...

1  
2 **J. Cooperation**

3           1. Defendant agrees, if requested by the United States, to provide complete and  
4 truthful information and testimony concerning his knowledge of all other persons who are committing  
5 or have committed offenses against the United States, and agrees to cooperate fully with the United  
6 States, any state and local agencies in the investigation and prosecution of such persons. Defendant  
7 agrees that the information he provides can be used against him to establish relevant conduct, as  
8 provided by the United States Sentencing Guidelines.

9           2. In the event the United States Attorney decides in his sole discretion that any  
10 assistance provided by Defendant amounts to "substantial assistance" pursuant to Section 5K1.1 of the  
11 Sentencing Guidelines and Title 18, United States Code, Section 3553(e), the United States will file  
12 a motion with the Court to allow the Court to consider a downward departure at the time of sentencing.  
13 It will be the Court's discretion as to whether the government's motion will be granted.

14           3. It is understood and agreed that a motion for departure based on substantial  
15 assistance shall not be made under any circumstances unless Defendant's cooperation is deemed to be  
16 substantial assistance by the United States Attorney. The United States has made no promise, implied  
17 or otherwise, that Defendant will be granted a departure for substantial assistance. Further, no promise  
18 has been made that a motion will be made for departure even if Defendant complies with all of the  
19 terms of this plea agreement in all respects but has been unable to provide substantial assistance as  
20 determined in the sole discretion of the United States Attorney.

21           4. The United States agrees to consider the totality of the circumstances, including  
22 but not limited to the following factors, in determining whether, in the sole discretion of the United  
23 States Attorney, Defendant has provided substantial assistance which would merit a motion by the  
24 United States for a downward departure from the applicable guidelines sentencing range:

25           a. The United States' evaluation of the significance and usefulness of  
26 Defendant's assistance;

b. The truthfulness, completeness, and reliability of any information or testimony provided by Defendant;

c. The nature and extent of Defendant's assistance;

d. Any injury suffered, or any danger or risk of injury to Defendant or Defendant's family resulting from Defendant's assistance;

e. The timeliness of Defendant's assistance.

5. It is understood and agreed that in the event a motion for departure is made by the United States based upon Defendant's perceived substantial assistance, the United States reserves the right to make a specific recommendation to the Court regarding the extent of the substantial assistance departure; however, the final decision as to how much, if any, reduction in sentence is warranted because of that assistance rests solely with the Court.

6. Defendant agrees that if the government determines that Defendant has not provided full and truthful cooperation, or has committed any local, state or federal crime between the date of this agreement and Defendant's sentencing, or has otherwise violated any other provision of this agreement, the agreement may be voided by the government and Defendant shall be subject to prosecution for any federal criminal offense of which the Government has knowledge including, but not limited to, perjury and obstruction of justice. Any such prosecution may be based upon any information provided by Defendant during the course of Defendant's cooperation, or leads derived therefrom. The government may void any obligations under this agreement and it will no longer be bound by said agreement.

## II.

PENALTY

1. The maximum penalty for violating Title 18, United States Code, Section 224, is not more than five years imprisonment, a fine of not more than \$250,000, or both.

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• • •

2. Defendant is subject to supervised release for a term not exceeding two years.
3. Defendant must pay a special assessment of \$100.00 for each count of conviction.
4. Defendant is required to pay for the costs of imprisonment, probation, and supervised release, unless Defendant establishes that Defendant does not have the ability to pay such costs, in which case the Court may impose an alternative sanction such as community service.
5. The maximum penalty for violating Title 18, United States Code, Section 201(b)(1) is not more than fifteen years imprisonment, a fine of not more than \$250,000 or not more than three times the monetary equivalent of the thing of value, whichever is greater, or both.
6. Defendant is subject to supervised release for a term of at least two years but not more than three years.
7. Defendant must pay a special assessment of \$100.00 for each count of conviction.
8. Defendant is required to pay for the costs of imprisonment, probation, and supervised release, unless Defendant establishes that Defendant does not have the ability to pay such costs, in which case the Court may impose an alternative sanction such as community service.

### III.

#### ELEMENTS

1. Title 18, United States Code, Section 224, Bribery in Sporting Contests, provides in pertinent part:

Whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined under this title, or imprisoned not more than 5 years or both.
2. The essential elements for the crime of Bribery in Sporting Contests are as follows:

1 One: Defendant knowingly carried into effect or attempted to carry into  
2 effect any scheme in commerce;

3 Two: The scheme was to influence, in any way, by bribery any sporting  
4 contest;

5 Three: Defendant knew that the purpose of such scheme was to influence by  
6 bribery that sporting contest.

7 3. Title 18, United States Code, Section 201(b)(1), Bribery of Public Officials,  
8 provides, in pertinent part that whoever "directly or indirectly, corruptly gives, offers or promises  
9 anything of value to any public official. . . with intent. . . to influence any official act. . . shall be fined  
10 . . . or imprisoned. . ."

11 4. "Public Official" includes a person acting for or on behalf of the United States.  
12 18 U.S.C. § 201(a)(1). "Official act means any decision of action on any question, matter cause, suit,  
13 proceeding or controversy, which may at any time be pending . . . 18 U.S.C. § 201(a)(3).

14 5. The essential elements of Bribery of Public Officials are:

15 One: Defendant promised something of value, directly or indirectly, to a  
16 public official; and

17 Two: Defendant acted corruptly, that is, with the intent to influence an  
18 official act by the public official.

19 Actual power to do what defendant seeks to accomplish is not an element. United  
20 States v. Carson, 464 F.2d 424, 431 (2d Cir. 1972).

21 IV.

22 FACTS

23 1. Defendant is pleading guilty because Defendant is guilty of the offenses  
24 charged in the Information. In pleading to this offense, Defendant acknowledges that if Defendant  
25 elected to go to trial instead of entering this plea, the United States could prove facts sufficient to  
26 establish Defendant's guilt beyond a reasonable doubt. Defendant recognizes the Government at trial

1 could prove the following facts beyond a reasonable doubt and admits the following facts which  
2 specifically pertain to him and his conduct:

3 (Count One)

4 2. On March 31, 2000, Defendant, acting on behalf of Mogens Palle, a Danish  
5 boxing promoter, contacted professional boxer Thomas Williams, a/k/a Top Dog, about purposefully  
6 losing a boxing match with Brian Neilson in Denmark. Defendant told Williams that Williams would  
7 be paid for losing the fight. Defendant was paid \$1,000, by Mogens Palle, to arrange the loss by  
8 Williams. Williams was paid up to \$40,000 by Palle. Williams lost to Nielson in the third round.  
9 Defendant made arrangements with Williams by contacting him telephonically in South Carolina or  
10 Georgia. Defendant and Williams traveled to Denmark for the match. The boxing match was a  
11 sporting contest, in that it was publicly announced before its occurrence.

12 (Count Two)

13 3. In July 2000, Defendant arranged for Williams to contact Robert Mitchell, a  
14 boxing promoter for the purpose of losing a boxing match on August 12, 2000, to Richie Melito, Jr.  
15 Mitchell paid Defendant \$1,000 to tell Williams to purposefully lose the match. Defendant made  
16 arrangements with Williams by contacting him telephonically in South Carolina or Georgia. Williams  
17 received up to \$15,000 to lose the match. Williams traveled to Las Vegas, Nevada, for the match.  
18 Williams was knocked out in the first round by Melito. The boxing match was a sporting contest, in  
19 that it was publicly announced before its occurrence.

20 (Count Three)

21 4. Beginning in February 2003 and continuing through December 2003,  
22 Defendant, knowing that Thomas Williams was indicted in the United States District Court for the  
23 District of Nevada, CR-S-01-301, contacted an undercover officer in Las Vegas, Nevada, about  
24 bribing an Assistant United States Attorney and a United States District Judge who were assigned to  
25 the pending criminal case against Williams. On October 30, 2003, Defendant offered \$15,000, to the  
26 undercover officer to cause the case to be dismissed against Williams. Defendant made a down



1 payment of \$3,000 on December 12, 2003, to the undercover officer. Defendant believed that the  
2 undercover officer could influence both the Assistant United States Attorney and the United States  
3 District Judge to dismiss the case against Williams.

4 V.

5 ACKNOWLEDGMENT

6 1. The undersigned defendant, ROBERT MITTLEMAN, acknowledges by his  
7 signature below that he has read this Plea Agreement, that he understands the terms and conditions,  
8 and the factual basis, set forth herein, that he has discussed these matters with his attorney, and that  
9 the matters set forth in this Agreement, including those facts which support a plea of guilty, are true  
10 and correct.

11 2. The undersigned Defendant acknowledges that he has been advised, and  
12 understands, that by entering a plea of guilty he is waiving, that is, giving up, certain rights guaranteed  
13 to him by law and by the Constitution of the United States. Specifically, he is giving up:

14 The right to be charged and prosecuted by indictment;

15 The right to be charged and prosecuted in the state and district where the crime  
16 occurred;

17 The right to proceed to trial by jury on the original charges, or to a trial by a judge if  
18 he and the United States both agree;

19 The right to confront the witnesses against him at such a trial, and to cross-examine  
20 them;

21 The right to remain silent at such trial, with such silence not to be used against him in  
22 any way;

23 The right, should he so choose, to testify in his own behalf at such a trial;

24 The right to compel witnesses to appear at such a trial, and to testify in his behalf; and,

25 The right to have the assistance of an attorney at all stages of such proceedings.

26 ...

...

...

3. The undersigned Defendant, his attorney, and the attorney for the United States acknowledge that this Memorandum of Plea Agreement is the entire agreement negotiated by and agreed to by and between the parties, and that no other promise has been made or implied by either Defendant, his attorney, or the attorney for the United States.

DANIEL G. BOGDEN  
United States Attorney

9.16.04  
DATED


KATHLEEN BLISS  
Assistant United States Attorney

4-16-04  
DATED

Robert Mittelman  
ROBERT MITTLEMAN  
Defendant

I am Robert Mittleman's attorney. I have fully explained to Defendant his rights regarding the pending indictment. I have also carefully reviewed every provision of this agreement with Defendant, including the rights Defendant is waiving. To my knowledge Defendant's decision to enter into this Agreement has been knowingly and voluntarily made.

4-16-04  
DATE

  
ALVIN ENTIN  
Counsel for Defendant